IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13720 of 2003

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA

AND

HONOURABLE MR.JUSTICE H.B.ANTANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether Their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the Civil Judge?

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UNION OF INDIA AND OTHERS - Petitioners
Versus
I.I.AJAB - Respondent

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Appearance :
MS PJ DAVAWALA for the Petitioners.
MR PS GOGIA for the Respondent.

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 09/11/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

1. The petitioners - Union of India and Others - have filed this petition under Articles 226 and 227 of the Constitution of India and challenged the impugned judgment and order dated 12-03-2003 passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad (for short, "Tribunal") in OA No. 663 of 1998 filed by the respondent - original applicant, whereby the learned Tribunal quashed and set aside the impugned charge-sheet dated 23-09-1992 and the impugned order of penalty dated 02-01-1996 passed by the Disciplinary Authority as well as the order passed by the Appellate Authority on 29-03-1996 and the order dated 17-06-1998 passed by the Reviewing Authority and the Revisional Authority.

2. The original applicant Shri I. I. Ajab - present respondent, while working as Telegraph Operator in the Central Telegraph Office, Rajkot, was charge-sheeted for making allegation against Additional Superintendent Shri G. G. Aakhunji in his letter dated 12-03-1992 addressed to the General Manager, Telecom, Rajkot, wherein the applicant had stated to him that Rs. 25,000/- was demanded by G.M. (O) Shri Mangla from Shri N. S. Shah for his posting at Ahmedabad and also other monetary benefits for his supervisor for own extension at Rajkot. However, Shri Mangla denied these allegations. Thus, it was

a word against word. However, the Disciplinary Authority found the charge proved against the applicant and, therefore, imposed penalty of stoppage of 5 increments, which was reduced to 3 years in appeal and revision. These impugned orders of penalty passed by the Disciplinary Authority as well as the Appellate Authority and the Revisional Authority were challenged by the original-applicant before the learned Tribunal by way of OA No. 663 of 1998. The same was allowed by the learned Tribunal *vide* its impugned order dated 12-03-2003.

3. Learned Counsel Ms. Davawala, panel Advocate for BSNL, vehemently submitted that the learned Tribunal ought not to have interfered with the punishment orders passed by the Disciplinary Authority as well as the Revisional Authority in the application filed by the original applicant. She submitted that it is now well settled by the Hon'ble Supreme Court that the Tribunal is not required to interfere with the order of penalty imposed by the Disciplinary Authority in a Departmental Inquiry. She has taken us through the entire judgment and order passed by the learned Tribunal and submitted that if the judgment is not set aside, then, it would lead to gross indiscipline in the department.

4. Having carefully gone through the impugned judgment and order passed by the learned Tribunal and having heard both the learned Counsel, Ms. Davawala for the petitioners and Shri Gogia for the

respondent, we are of the considered opinion that while allowing the application, the learned Tribunal has not committed any jurisdictional error which is required to be corrected by this Court in its limited jurisdiction under Article 227 of the Constitution of India. Though this petition is labelled both under Articles 226 and 227 of the Constitution of India, strictly speaking, it is a petition under Article 227 of the Constitution of India, the scope of which is very narrow and limited. It is held by the Hon'ble Supreme Court in umpteen number of decisions that this Court cannot correct even error on facts or law committed by the Tribunal in its jurisdiction under Article 227 of the Constitution of India. In the instant case, neither any error on facts nor law, much less jurisdictional error, is committed by the learned Tribunal which calls for any interference.

5. It appears from the judgment of the learned Tribunal that the original applicant was the office bearer of the Union. In fact, in the instant case, the applicant himself has admitted that he made certain allegations, but they were not intentional. What was told by Shri Aakhunji was stated by him in his letter.

6. Under the circumstances, if the learned Tribunal had thought it fit to interfere with the minor order of penalty passed against the applicant, then, certainly we would not like to interfere with such order in our limited jurisdiction under Article

227 of the Constitution of India.

7. Before parting, we must state that we have specifically asked Ms. Davawala as to whether criminal case of defamation was filed by Shri Aakhunji against the applicant or not, to which she has stated that she was not having instructions in the matter. However, from the judgment of the learned Tribunal, it clearly appears that the Authority rested with the Departmental Inquiry. If a criminal case of defamation was filed against the applicant, then certainly it would have been reflected in the order of the learned Tribunal.

8. Be that as it may, in view of the above discussion, this petition fails and is hereby dismissed. Rule is discharged. No costs. *Ad interim* relief granted earlier stands vacated forthwith.

[B. J. SHETHNA, J.]

[H. B. ANTANI, J.]

/shamnath